

An. Code, 1924, sec. 32. 1912, sec. 28. 1904, sec. 27. 1888, sec. 25. 1860, ch. 132, sec. 1.

39. The clerks of the circuit courts for the several counties, of the superior court of Baltimore City, the court of common pleas, the Baltimore City court, and the circuit court and circuit court No. 2 of Baltimore City shall have the power and jurisdiction to take *supersedeas* of judgments and decrees in their respective courts, as a justice of the peace in the counties has by law; and the *supersedeas* so taken shall have the same effect as if taken by a justice of the peace; and every surety in a *supersedeas* of a judgment rendered in the respective courts, and superseded before the clerks of said courts, shall sign the same, or if he cannot write shall make his mark, to be attested by the clerk; and the several clerks shall be entitled to a fee of twenty-five cents for each *supersedeas*.

No power is conferred by this section upon the clerk of the criminal court of Baltimore City to take *supersedeas* of a judgment rendered in that court. In taking a *supersedeas*, the clerk should pursue the form contained in art. 52, sec. 61. *Backus v. State*, 118 Md. 540.

The clerk acts under this section by virtue of a special authority, and not in the discharge of his ordinary duties. He has no authority to change the date of a *supersedeas*, and if he does so, the *supersedeas* will be stricken out. *Smith v. Bowes*, 38 Md. 465; *Bowes v. Isaacs*, 33 Md. 539; *Backus v. State*, 118 Md. 540.

The *supersedeas* operates as a stay of execution, and is itself a judgment on which execution may issue by order of court. *Bowes v. Isaacs*, 33 Md. 539; *Backus v. State*, 118 Md. 540.

See art. 52, sec. 61, *et seq.*

An. Code, 1924, sec. 33. 1912, sec. 29. 1904, sec. 28. 1888, sec. 26. 1860, ch. 132, sec. 2.

40. It shall be the duty of the clerks of the respective courts and of the justices of the peace, in taking the *supersedeas* of any judgment, to accept no party as a superseder unless satisfied that he is worth in real or personal estate, over and above his actual debts, the full amount of the judgment proposed to be superseded.

The clerk acts under this section, in pursuance of a special authority which may be exercised in or out of court. *Bowes v. Isaacs*, 33 Md. 539; *Smith v. Bowes*, 38 Md. 465.

This section referred to in construing sec. 39. *Backus v. State*, 118 Md. 542.

See notes to sec. 39.

An. Code, 1924, sec. 34. 1912, sec. 30. 1904, sec. 29. 1888, sec. 27. 1860, ch. 132, sec. 3.

41. It shall not be lawful for the justices of the peace of the city of Baltimore to take *supersedeas* of any judgment recovered in the court of common pleas, the superior court of Baltimore City, or the Baltimore City court, or of any decree entered in the circuit court or circuit court No. 2 of Baltimore City, but such *supersedeas* shall be taken by the clerks of said courts, respectively.

See art. 52, sec. 61, *et seq.*

An. Code, 1924, sec. 35. 1912, sec. 31. 1904, sec. 30. 1888, sec. 28. 1853, ch. 412.

42. The clerks of the several circuit courts for the counties, the clerk of the court of common pleas, and of the circuit court and circuit court No. 2 of Baltimore City shall each have concurrent power with the judge of his court to pass all orders *nisi* for the ratification of auditor's reports and accounts, but not final orders.

An. Code, 1924, sec. 36. 1912, sec. 32. 1904, sec. 31. 1888, sec. 29. 1852, ch. 173, sec. 1.

43. The clerks of the circuit courts for the counties, and the clerk of the circuit court and circuit court No. 2 of Baltimore City, and of the court